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July 16, 2025

Ms. Molly Dwyer  
Clerk of the Court  
United States Court of Appeals  
for the Ninth Circuit  
95 Seventh Street  
San Francisco, California 94103-1526

Re: No. 23-4132, *United States v. Daniel Matthew Kittson*  
Submitted After Oral Argument – June 12, 2025 (Portland, Oregon)  
Government's 28(j) Letter

Dear Ms. Dwyer:

Following oral argument in this case, this Court issued *United States v. Vlba*, No. 22-50281, F.4th, 2025 WL 1890595 (9th Cir. July 9, 2025). *Vlba* relates to the government's argument that defendant's facial challenge to 18 U.S.C. § 922(o) fails because his as-applied conduct—a felon on parole selling a machinegun on the black market—falls outside the scope of Second Amendment protection. *See* Gov't Ans. Br. at 38-39; *see also Vlba*, F.4th, 2025 WL 1890595, at \*3-5 (applying the ancillary rights doctrine to find the Second Amendment does not protect “the conduct for which the defendants were convicted in this case,” conspiring to manufacture firearms for sale without a license and selling a firearm to a felon).

Molly Dwyer, Clerk of the Court  
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Sincerely,

WILLIAM M. NARUS  
Acting United States Attorney  
District of Oregon

*s/ Sarah Barr*  
SARAH BARR  
Assistant United States Attorney

cc: Michael Benson, Attorney for Defendant-Appellant